

MEETING DATE: November 18, 2021

AGENDA ITEM: J

TO: BSCC Chair and Members

FROM: Allison Ganter, Deputy Director, allison.ganter@bscc.ca.gov

SUBJECT: Adult Titles 15 and 24 Regulations: Approval of Proposed Revisions and Launch of Rulemaking Process: **Requesting Approval**

Summary

This item asks the Board to consider and approve changes to the Titles 15 and 24 Regulations for Adult Local Detention Facilities (Cal. Code Regs., tit. 15, §§ 1000-1282) as recommended by the Adult Titles 15 and 24 Regulations Revision Executive Steering Committee. This item further requests that the Board approve the recommendations and direct staff to begin the Office of Administrative Law (OAL) and Building Standards Commission (BSC) rulemaking processes for adoption and implementation. These proposed changes are part of the Board's statutory duties to biennially review the standards for local detention facilities. (Pen. Code, § 6030, subd. (a).) In addition, these revisions follow the Governor's directive to align the Board's Title 15 regulations with national best practices. It is anticipated that the Title 15 regulations will become effective on July 1, 2022 or, if additional revisions are required following the OAL public comment period, no later than October 1, 2022. Title 24 regulations will become effective in accordance with the BSC timelines; BSCC staff will keep the Board apprised of the effective date.

A detailed timeline of the ESC process and all available material is located at: <https://www.bscc.ca.gov/adult-titles-15-and-24-regulations-revision/>

Background

The Board of State and Community Corrections is required to review minimum standards for local detention facilities biennially and make appropriate revisions, pursuant to Penal Code section 6030, subdivision (a).

At its April 11, 2019, meeting, the Board directed staff to begin the adult Titles 15 and 24 regulations review and revision process. Sutter County Sheriff Brandon Barnes was appointed as Chair of the Executive Steering Committee (ESC) to direct the process. ESC members were solicited via the BSCC's inclusive process and selected based on a balance of personal and professional expertise, including lived experience and experience working in the field, whether it be detention facilities or in a direct service area such as medical or mental health. The original membership can be located [HERE](#).

BSCC staff convened an ESC on December 2, 2019, to consider and identify areas where regulations required revisions and to establish subject-matter workgroups to begin the

drafting process. The discussions were informed by feedback the BSCC staff had requested from the public.

While ten (10) subject-matter workgroups were established and scheduled to meet beginning in March 2020, only two groups, Classification & Segregation and Medical & Mental Health, met before the COVID-19 pandemic struck and a state-mandated shelter-in-place order forced postponement of in-person subject matter workgroup meetings.

In the meantime, the Governor's proposed FY 2020-21 budget directed BSCC to strengthen the state's oversight of county jails. Specifically, the proposed budget provided:

The Board of State and Community Corrections will more actively engage counties regarding deficiencies identified as part of its inspections through its public board meeting process and by more frequent follow-up inspections. The Board will also provide additional technical assistance to those counties where issues are identified. Also, as part of the Title 15 jail standards review, the Board will make sure the standards are consistent with national best practices. (Governor's Budget Summary 2020-21. Page 142.)

Due to the uncertainty of the pandemic, subject-matter expert workgroups were reconvened and scheduled to meet during multiple Zoom meetings from September through December 2020. Because of the changing circumstances, several originally selected workgroup members were unable to participate. Public participation and feedback prior to and during the meetings were encouraged and incorporated into each meeting.

Following workgroup meetings, BSCC staff developed initial proposed revisions to the regulations and requested public feedback. BSCC staff also held a public Zoom meeting on May 19, 2021, to provide an overview of the regulations revision process and review how the community could participate in the process.

The ESC reconvened on May 25, 2021, to review the initial proposed revisions. During this meeting there were many requests for an additional public review and comment period. The BSCC accommodated those requests by establishing a process, including a web-based survey, for community members to provide additional feedback on the initial proposed revisions through July 31, 2021.

The ESC met again on August 31 and September 30, 2021, to review feedback received, review initial proposed revisions, ensure that regulations were aligned with national best practices, and direct BSCC staff to make modifications to the final proposed revisions based on community feedback and ESC discussion.

The final proposed revisions being presented today reflect the work conducted since October 2019. There are significant revisions being proposed that align regulations with available national best practices that will ensure increased safety for people housed and working in local detention facilities. Some highlights in the revisions include:

- Replacing outdated and inappropriate terminology with gender-inclusive and people-centered language, such as "person" rather than "inmate."

- Prohibiting the use of carotid holds and the disciplinary diet.
- Expanding requirements for safety checks to ensure that they are random and varied, that a supervisor conducts a documented review of completed safety checks and recognizes more frequent safety checks for high-risk situations.
- Aligning suicide prevention requirements with best practices, including that facility policy and procedures reflect best practices, that people receive suicide prevention screening in special circumstances, such as a return from court, follow-up after a suicide attempt, and ensuring the least restrictive housing placement for people who may be experiencing suicidal ideation.
- Updating regulations for high-risk regulations such as safety cell and restraints to include best practices and a recognition that the least-restrictive methods should be used for people being placed in these situations.
- Defining “out of cell time” and increasing the amount of time people must spend outside their cells from three (3) hours over a period of seven (7) days to ten (10) hours and specifying that some of this time must be used for exercise.
- Requiring facilities to provide appropriate telecommunications devices for people with hearing or speech impairment.
- Changes relevant to clothing and bedding that emphasizes the responsibility to provide clothing and mattresses that are clean, free of stains, holes, and tears.

Recommendation/Action Needed

Approve the final proposed revisions and direct BSCC staff to begin the OAL rulemaking process.

Attachments

J-1: Final Proposed Adult Title 15 Revisions

J-2: Final Proposed Adult Title 24 Revisions